

# Armed with Intellectual Freedom: Current Challenges and Next Steps

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Freedom to Read Foundation  
FREE PEOPLE READ FREELY

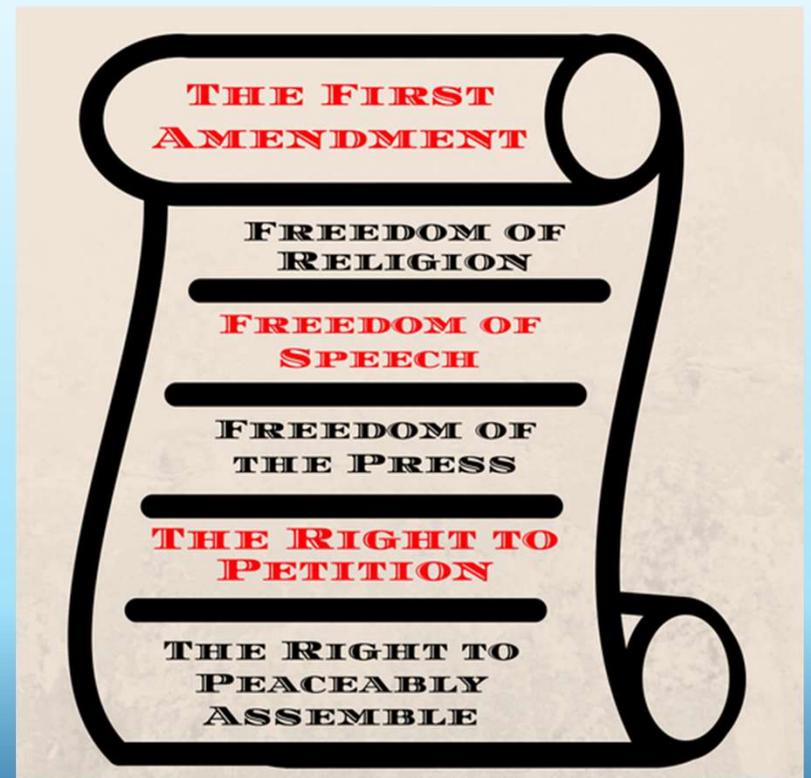


ALA American  
Library  
Association

# WHAT IS INTELLECTUAL FREEDOM?

Intellectual freedom is the right of unrestricted access to information and ideas, protected by the First Amendment.

The First Amendment applies to government entities, not private entities. The school board members have to set policies within government rules and regulations.



# CENSORSHIP

is the effort to ban, prohibit, remove, label or restrict library materials, based on the belief that the materials will corrupt children, offend the unwary reader, or undermine moral values.

# LIMITED PUBLIC FORUM

Only the public library is a designated or limited public forum, created by the government for the sole purpose of providing access to information.

According to existing court opinion, the First Amendment protects individuals' right to 1) physically access the library; and 2) read and receive information and use the resources made generally available to the public in the library (this includes meeting rooms and display cases, when the library has decided to make those spaces available to the public.)

The library has the right to establish reasonable rules governing library use. A library's power to regulate patron behavior is not limited to cases of "actual disruption," but may be tied to safety, use of resources, and other reasonable concerns directed to fulfilling the library's mission.

Best practice is for a public library to have content-neutral rules that apply objective standards to behavior, safety, or administrative issues that are enforced in a non-discriminatory manner. This includes our collection development policy (why we buy what we buy) and our materials reconsideration policy (protecting your right to say you what you think about an item)

# THE PUBLIC LIBRARY IS THE ONLY LIMITED PUBLIC FORUM

As with any public forum the 1<sup>st</sup> Amendment protects people's rights to use the forum without government interference related to the content of what is communicated there. Another words, there's no room for viewpoint discrimination.

As a limited public forum, a public library may impose reasonable "time, place, and manner" restrictions on patron behavior.

# WHAT'S GOING ON? THE VIEW FROM 30,000 FEET

- Partisan advocacy groups targeting school and library boards
- Disruptions/challenges at board public comment sessions
- Challenges to diverse content fueled by social media
  - LGBTQIA+, sex education materials
  - Books addressing racism or the experiences of those who are Black, Indigenous, or Persons of Color
- Board Recalls and Elections
- Criminal Complaints targeting library staff, educators, and materials

# WHAT'S GOING ON? THE VIEW FROM 30,000 FEET

- Adverse State legislation
  - Bans or limits on discussing or teaching “divisive topics,” or “Critical Race Theory”
  - Bans or limits on discussing, teaching or providing information about LGBTQIA+ topics (“Don’t Say Gay”)
  - Eliminating longstanding legal defenses to obscenity prosecutions for librarians and educators
  - Filtering/regulation of research databases like EBSCO
  - Parental Rights / Private Right of Action / Parent Oversight Boards

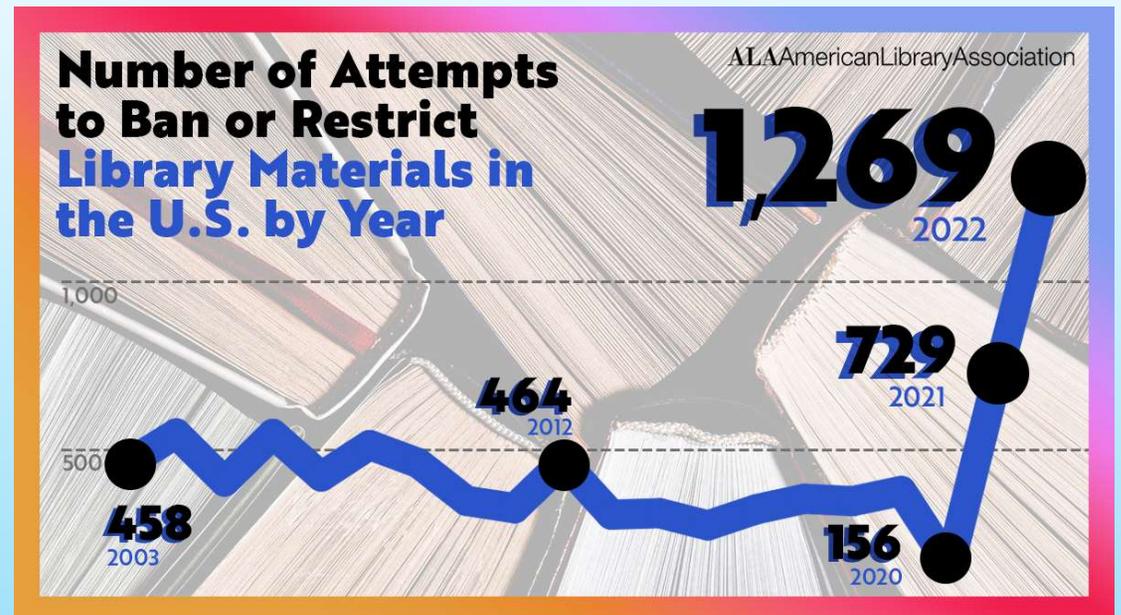
# WHAT'S GOING ON?

2019: 377 challenges

2020: 156 challenges  
(Pandemic Year)

2021: 729 challenges  
1,597 titles

2022: 1,269  
2,571 titles



# STUDENTS DON'T LOSE THEIR RIGHTS WHEN THEY WALK IN THE SCHOOL DOORS

“[i]n our system, students may not be regarded as closed- circuit recipients of only that which the State chooses to communicate.” Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

A school library is still a library, and the library collection development policy and reconsideration policy must be followed.

School Board members and administration must also follow these policies and in the same way that you commit to following the Library Bill of Rights and ALA Code of Ethics, they took an oath of office to set their personal beliefs aside, follow the Constitution of the United States, and follow the school districts policies.

# OBSCENITY

Miller v. California, 413 U.S. 15 (1973)

The material must meet all three parts of the legal test established by the Supreme Court in the *Miller v. California* decision to be found obscene by a court of law

- Whether the work depicts or describes, in **a patently offensive way, sexual conduct specifically defined by the applicable state law**, and
- Whether the average person, applying “contemporary community standards” would find the work, **as a whole, appeals to the “prurient interest,”** and
- Whether the work, **taken as a whole, lacks serious literary, artistic, political or scientific value.**

# HARMFUL TO MINORS

Ginsberg v. New York, 390 U.S. 629 (1968).

“Harmful to minors” or “obscene as to minors” materials: the test parallels the obscenity test set forth in *Miller*, but the considerations are in the context of offensiveness and serious value for minors.

# MATERIALS CHALLENGE FORM

## REQUEST FOR RECONSIDERATION OF LIBRARY MATERIALS

Format: Book \_\_\_ Periodical \_\_\_ Video / DVD \_\_\_ Music \_\_\_ Audio Book \_\_\_ Other \_\_\_

Author: \_\_\_\_\_

Title: \_\_\_\_\_

Have you read / viewed / listened to the entire work? Yes \_\_\_ No \_\_\_

If not, which parts have you read / heard / seen? \_\_\_\_\_

What specifically do you find objectionable in this work? Please explain and cite pages or sections. Please use the back of the form for additional space.

\_\_\_\_\_

What do you feel may be the result of reading/viewing/listening to this work?

\_\_\_\_\_

Request initiated by:

Name (please print): \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Requestor represents: Self \_\_\_ Organization (Name) \_\_\_\_\_

\_\_\_\_\_

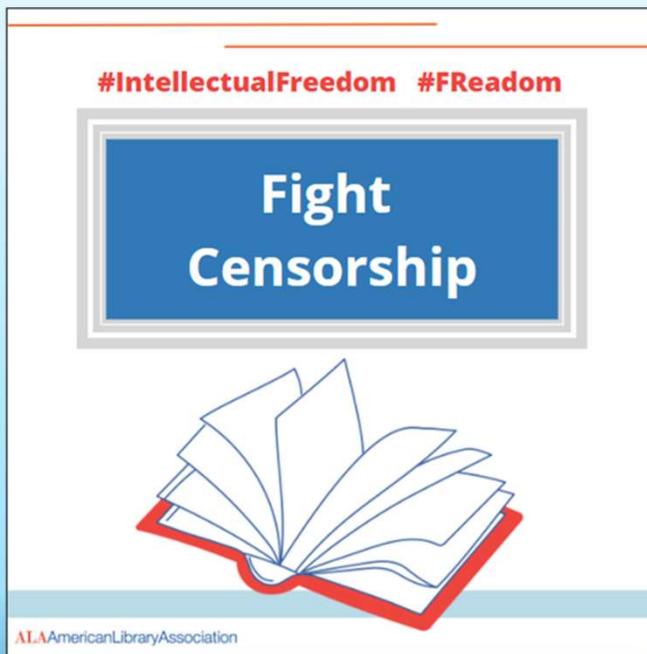
Signature

Date

Date received \_\_\_\_\_ By \_\_\_\_\_

*Your completion and signing of this form identifies you with specific library materials. As such, the information you provide in completing this form will be kept confidential.*

# ALA OFFICE FOR INTELLECTUAL FREEDOM



[ala.org/advocacy/fight-censorship](http://ala.org/advocacy/fight-censorship)

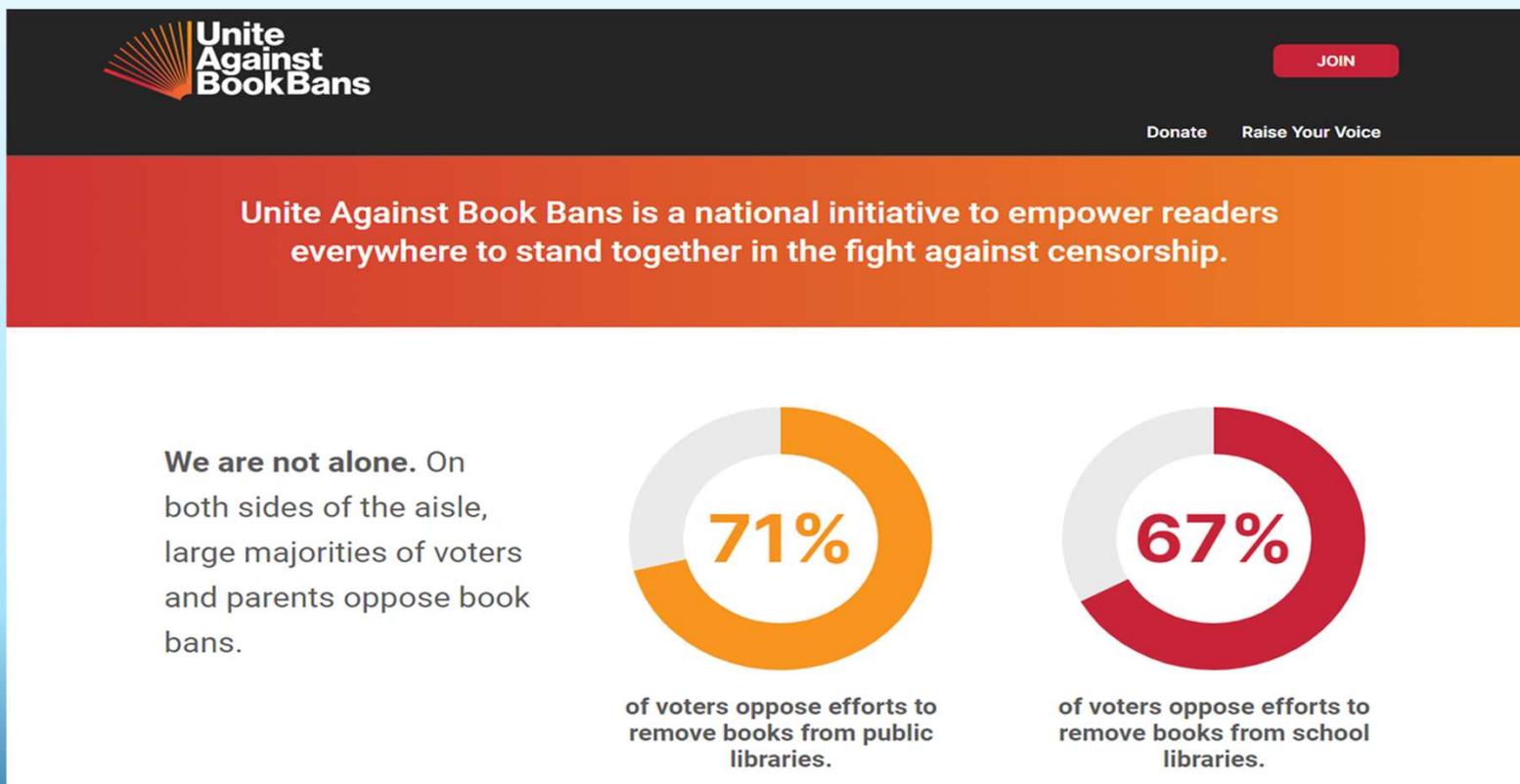
- Challenge Support (please report report report!)
- One-on-One confidential Support
- Where circumstances allow, public statements and letters of support
- Merritt Humanitarian Fund (financial support)
- Freedom to Read Foundation (legal support)
- Confidential reporting and data collection
- Trend spotting, Advocacy
- Public awareness: Most Challenged Books, Banned Books Week

# THE FREEDOM TO READ FOUNDATION

FTRF is a non-profit legal and educational organization affiliated with the American Library Association – [www.ftrf.org](http://www.ftrf.org)

- **Education** – scholarships, webinars, in-person trainings
- **Litigation** – Since its founding in 1969, FTRF has defended booksellers, librarians, and artists in First Amendment cases, ensuring the literary community's interests are represented in courts.
- **Advocacy**– FTRF Advocates for free speech and freedom of the press – fundamentals of a successful democracy

# UNITE AGAINST BOOK BANS.ORG



**Unite Against Book Bans**

[JOIN](#)

[Donate](#) [Raise Your Voice](#)

Unite Against Book Bans is a national initiative to empower readers everywhere to stand together in the fight against censorship.

**We are not alone.** On both sides of the aisle, large majorities of voters and parents oppose book bans.

Category	Percentage
of voters oppose efforts to remove books from public libraries.	71%
of voters oppose efforts to remove books from school libraries.	67%

# UNITE AGAINST BOOK BANS.ORG

<https://uniteagainstbookbans.org/toolkit/>

**The following talking points are from uniteagainstbookbans.org. This toolkit can be a great help for community members, parents, and students.**

- We can trust individuals to make their own decisions about what they read and believe.
- Reading is a foundational skill, critical to future learning and to exercising our democratic freedoms.
- Parents have the right to guide their children's reading, but parents should not be making decisions for other parents' children. Specifically, a small group of parents should not dictate what books other people's children are allowed to read.
- Books are tools for understanding complex issues. Limiting young people's access to books does not protect them from life's complex and challenging issues.
- Young people deserve to see themselves reflected in a library's books.
- Removing and banning books from public libraries is a slippery slope to government censorship and the erosion of our country's commitment to freedom of expression.
- Please reject any efforts to ban books and allow individuals and parents to make the decision about what they can read and believe.

# ALA POLICY CORPS



An initiative of the ALA Public Policy & Advocacy Office, in partnership with ALA's Office for Intellectual Freedom.

Policy Corps members work to expand the Association's ability to advocate on key policy issues on behalf of the library community by influencing public opinion and governmental decision making.

<https://www.ala.org/advocacy/ala-policy-corps>

**ALAPOLICYCORPS**   
ALA American Library Association

# THE MERRITT FUND

Providing Assistance to Librarians **Facing  
Discrimination** or **Defending Intellectual Freedom**

LIBRARIANS STAND UP FOR YOUR RIGHTS  
**STAND WITH THEM IN THEIR TIME OF NEED**

Make a donation or  
request assistance at  
**[www.MerrittFund.org](http://www.MerrittFund.org)**



Thank You

Feel free to reach out with any questions.

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FREE PEOPLE READ FREELY

